

## § 73.28

## 10 CFR Ch. I (1–1–16 Edition)

the consignee of a shipment, the licensee shall, before the shipment is delivered to the carrier, obtain written certification from the contractor who is to take delivery of the shipment at the f.o.b. point that the physical protection arrangements required by the United States Department of Energy Order Nos. 5632.1 or 5632.2, as appropriate, have been made.

(3) A licensee who delivers formula quantities of strategic special nuclear material to a carrier for transport or releases such special nuclear material f.o.b. at the point where it is delivered to a carrier for transport shall also make arrangements with the consignee to be notified immediately by telephone and telegraph, teletype, or cable, of the arrival of the shipment at its destination or of any such shipment that is lost or unaccounted for after the estimated time of arrival at its destination.

(b) Each licensee who receives a shipment of formula quantities of strategic special nuclear material shall immediately notify by telephone and telegraph or teletype, the person who delivered the material to a carrier for transport and the Director, Division of Security Policy, Office of Nuclear Security and Incident Response, of the arrival of the shipment at its destination. When a United States Department of Energy license-exempt contractor is the consignee, the licensee who is the consignor shall notify by telephone and telegraph, or teletype, the Director, Division of Security Policy, Office of Nuclear Security and Incident Response of the arrival of the shipment at its destination immediately upon being notified of the receipt of the shipment by the license-exempt contractor as arranged pursuant to paragraph (a)(3) of this section. In the event such a shipment fails to arrive at its destination at the estimated time, or in the case of an export shipment, the licensee who exported the shipment, shall immediately notify by telephone and telegraph or teletype, the Director, Division of Security Policy, Office of Nuclear Security and Incident Response, and the licensee or other person who delivered the material to a carrier for transport. The licensee who made the physical protec-

tion arrangements shall also immediately notify by telephone and telegraph, or teletype, the Director, Division of Security Policy, Office of Nuclear Security and Incident Response of the action being taken to trace the shipment.

(c) Each licensee who makes arrangements for physical protection of a shipment of formula quantities of strategic special nuclear material as required by §§ 73.25 and 73.26 shall immediately conduct a trace investigation of any shipment that is lost or unaccounted for after the estimated arrival time and file a report with the Commission as specified in § 73.71.

[44 FR 68192, Nov. 28, 1979, as amended at 67 FR 3586, Jan. 25, 2002; 68 FR 14530, Mar. 26, 2003; 68 FR 23575, May 5, 2003; 74 FR 62684, Dec. 1, 2009]

### **§ 73.28 Security background checks for secure transfer of nuclear materials.**

Licensees are excepted from the security background check provisions in Section 170I of the AEA if they have not received Orders from the Nuclear Regulatory Commission containing requirements for background checks for trustworthiness and reliability that include fingerprinting and criminal history record checks as a prerequisite for unescorted access to radioactive materials.

[72 FR 3027, Jan. 24, 2007]

### **§ 73.35 Requirements for physical protection of irradiated reactor fuel (100 grams or less) in transit.**

Each licensee who transports, or delivers to a carrier for transport, in a single shipment, a quantity of irradiated reactor fuel weighing 100 grams (0.22 pounds) or less in net weight of irradiated fuel, exclusive of cladding or other structural or packaging material, which has a total external radiation dose rate in excess of 1 Gray (100 rad) per hour at a distance of 1 meter (3.3 feet) from any accessible surface without intervening shielding, shall follow the physical protection requirements for category 1 quantities of radioactive material in subpart D of part 37 of this chapter.

[78 FR 17021, Mar. 19, 2013]